

DOWD, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

THERESA L. POLETSKY,)
Plaintiff(s),) CASE NO. 5:07 CV 3877
v.)
CMLW ENTERPRISES, INC., and)
TODD RIPLEY,)
Defendants.) MEMORANDUM OPINION

This case was scheduled for jury trial on November 2, 2009. Immediately prior to the trial, the court was informed that counsel had reached a settlement. As a consequence, the jurors were excused. The court put the settlement on the record.

The court has examined the transcript of the settlement conference which indicated that the defendants had agreed to pay the sum of \$15,000 to settle the case and that the plaintiff had agreed to accept \$15,000 to settle the case and with the understanding that each party would pay its own costs. Additionally, the settlement included the proposition that if the settlement sum was not paid, the debt based on nonpayment would not be dischargeable in bankruptcy.

During the settlement hearing the court indicated that if the defendants failed to make the payments of \$5,000 each until the total sum of \$15,000 had been paid, the court would put its own judgment on the record for the balance of whatever amount had not been paid.

On November 20, 2009 the court filed a judgment entry which stated in full as follows:

This case was scheduled for trial for November 2, 2009. On the morning of November 2, 2009, counsel and the parties assembled in the Court's chambers

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and the Court was advised that the parties have reached a settlement which will require periodic payments. The settlement conference was transcribed but with the order that it not be filed unless the court so directed.

As a consequence, this case is considered settled and the case will be dismissed, but with the understanding that upon motion of the plaintiff and for good cause shown the Court will reopen the case.

For record purposes the Court will consider this case closed.

IT IS SO ORDERED.

On July 9, 2010 counsel for the plaintiff moved to reopen the case because the payments promised by the defendants had not been paid.

The court scheduled a status conference for July 20, 2010. Counsel for the plaintiff, the plaintiff and Ralph Dublikar, counsel for the defendants, appeared at the status conference. Mr. Dublikar advised the court that he had attempted to make contact with the defendants but neither defendant responded to his request. Mr. Dublikar assured the court that no payments had been made by the defendants in compliance with the settlement agreement. The court announced that it would publish its own judgment entry awarding judgment to the defendants consistent with the settlement agreement as set forth in the hearing conducted by the court in November, 2009 and specifically that the judgment would not be subject to discharge in bankruptcy.

As a consequence, the court hereby reopens the case and will publish separately the judgment entry consistent with the settlement agreement announced by the parties to the court in November, 2009.

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Additionally, if Mr. Dublikar files a motion to withdraw as a counsel for the defendants, the court will approve the motion.

IT IS SO ORDERED.

July 21, 2010
Date

/s/ David D. Dowd, Jr.
David D. Dowd, Jr.
U.S. District Judge